



Reprinted
February 5, 2004

HOUSE BILL No. 1157

DIGEST OF HB 1157 (Updated February 4, 2004 9:24 pm - DI 97)

Citations Affected: IC 5-10; IC 20-5; IC 21-2; IC 27-6; IC 27-9.

Synopsis: School corporation insurance. Requires the state personnel department, in cooperation with the department of insurance (DOI), to implement a pilot project through which active and retired employees of ten school corporations chosen by the DOI participate in the state employee health benefit plan. Sets forth provisions allowing school corporations to enter into interlocal agreements to establish a cooperative risk management program to provide for coverage of certain risks of the school corporations.

Effective: Upon passage; July 1, 2004.

Fry, Oxley

January 13, 2004, read first time and referred to Committee on Education.
January 26, 2004, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.
January 29, 2004, reported — Do Pass.
February 4, 2004, read second time, amended, ordered engrossed.

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HB 1157—LS 7131/DI 97+



Reprinted
February 5, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1157

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-2.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 2.8. (a) As used in this section, "pilot project" refers**
4 **to the school corporation health benefit pilot project established by**
5 **the state personnel department under subsection (d).**

6 **(b) As used in this section, "state employee health plan" means:**

- 7 **(1) the self-insurance program established by the state**
8 **personnel department under section 7(b) of this chapter; or**
9 **(2) a contract with a prepaid health care delivery plan entered**
10 **into by the state personnel department under section 7(c) of**
11 **this chapter.**

12 **(c) Notwithstanding any other provision of this chapter to the**
13 **contrary, and notwithstanding IC 20-5-2-2(14), a school**
14 **corporation may:**

- 15 **(1) apply to participate in the pilot project; and**
16 **(2) if chosen by the department of insurance, participate in**
17 **the pilot project.**

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(d) The state personnel department, in cooperation with the department of insurance, shall develop and implement a school corporation health benefit pilot project. The pilot project:

(1) must enable ten (10) school corporations that:

(A) apply for participation in the project; and

(B) are chosen by the department of insurance;

to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan that covers active state employees and is chosen by the school corporation; and

(2) must be established not later than January 1, 2005.

(e) The pilot project must do the following:

(1) Specify participation requirements, including minimum participation and contribution requirements, and an application process for school corporations that wish to apply.

(2) Provide for the department of insurance to choose ten (10) eligible school corporations for participation in the project.

(3) Provide for enrollment of the active and retired employees of the participating school corporations in a state employee health plan not later than June 30, 2005.

(4) Provide for coverage of the active and retired employees of the participating school corporations under the state employee health plan until a date not earlier than June 30, 2010, and not later than December 31, 2010.

(5) Require the state personnel department to provide to the legislative council in an electronic format under IC 5-14-6:

(A) an annual report not later than July 1 of each year; and

(B) a final report, including aggregate information, not later than July 1, 2011;

concerning the effect of the participation in the state employee health plan by the active and retired employees of the school corporation employees, including the effect on premium rates, costs to the state and to the school corporations, and any other information determined relevant by the legislative council.

(6) Conclude insurance coverage not later than December 31, 2010.

(f) A school corporation that participates in the pilot project under this section shall provide for payment of the premium for the coverage as provided in section 2.6 of this chapter. The state shall not pay any part of the premium for the coverage. The administrator of the state employee health plan described in

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1 subsection (b)(1) shall not pay any part of the administrative cost
2 or other costs of the coverage.

3 (g) The state personnel department may adopt rules under
4 IC 4-22-2 to implement this section.

5 (h) This section expires December 31, 2011.

6 SECTION 2. IC 20-5-2-2, AS AMENDED BY P.L.286-2001,
7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: Sec. 2. In carrying out the school purposes of each
9 school corporation, its governing body acting on its behalf shall have
10 the following specific powers:

11 (1) In the name of the school corporation, to sue and be sued and
12 to enter into contracts in matters permitted by applicable law.

13 (2) To take charge of, manage, and conduct the educational affairs
14 of the school corporation and to establish, locate, and provide the
15 necessary schools, school libraries, other libraries where
16 permitted by law, other buildings, facilities, property, and
17 equipment therefor.

18 (2.5) To appropriate from the general fund an amount, not to
19 exceed the greater of three thousand dollars (\$3,000) per budget
20 year or one dollar (\$1) per pupil, not to exceed twelve thousand
21 five hundred dollars (\$12,500), based upon the school
22 corporation's previous year's average daily membership (as
23 defined in IC 21-3-1.6-1.1) for the purpose of promoting the best
24 interests of the school corporation by:

25 (A) the purchase of meals, decorations, memorabilia, or
26 awards;

27 (B) provision for expenses incurred in interviewing job
28 applicants; or

29 (C) developing relations with other governmental units.

30 (3) To acquire, construct, erect, maintain, hold, and to contract for
31 such construction, erection, or maintenance of such real estate,
32 real estate improvements, or any interest in either, as the
33 governing body deems necessary for school purposes, including
34 but not limited to buildings, parts of buildings, additions to
35 buildings, rooms, gymnasiums, auditoriums, playgrounds, playing
36 and athletic fields, facilities for physical training, buildings for
37 administrative, office, warehouse, repair activities, or housing of
38 school owned buses, landscaping, walks, drives, parking areas,
39 roadways, easements and facilities for power, sewer, water,
40 roadway, access, storm and surface water, drinking water, gas,
41 electricity, other utilities and similar purposes, by purchase, either
42 outright for cash (or under conditional sales or purchases money

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contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by outright purchase for cash, or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where such contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish such personal property. All purchases and contracts delineated under the powers given under subdivision (3) and this subdivision shall be subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of agencies of the state as provided in section 3 of this chapter.

(5) To sell or exchange any of such real or personal property or interest therein, which in the opinion of the governing body is not necessary for school purposes, in accordance with IC 20-5-5, to demolish or otherwise dispose of such property if, in the opinion of the governing body, it is not necessary for school purposes and is worthless, and to pay the expenses for such demolition or disposition.

(6) To lease any school property for a rental which the governing body deems reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children aged five (5) through fourteen (14) years that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this

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subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if the property subject to a long term lease is being paid for from money in the school corporation's debt service fund, then all proceeds from the long term lease shall be deposited in that school corporation's debt service fund so long as the property has not been paid for. The governing body may, at its option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(7) To employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including but not limited to the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and such other personnel or services, all as the governing body considers necessary for school purposes. To fix and pay the salaries and compensation of such persons and such services. To classify such persons or services and to adopt schedules of salaries or compensation. To determine the number of such persons or the amount of services thus employed or contracted for. To determine the nature and extent of their duties. The compensation, terms of employment, and discharge of teachers shall, however, be subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers shall be subject to and shall be governed by any laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of such school corporation shall be submitted to the state board of accounts for approval to the end that such services shall be used

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by the school corporation when the governing body determines that it is in the best interests of the school corporation while at the same time providing reasonable accountability for the funds expended.

(8) Notwithstanding the appropriation limitation in subdivision (2.5), when the governing body by resolution deems a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including but not limited to attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit such employee to be absent in connection with such trip without any loss in pay and to refund to such employee or to such member his reasonable hotel and board bills and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(9) To transport children to and from school, when in the opinion of the governing body such transportation is necessary, including but not limited to considerations for the safety of such children and without regard to the distance they live from the school, such transportation to be otherwise in accordance with the laws applicable thereto.

(10) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including but not limited to the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate such program, and the purchase of any material and supplies therefor, charging students for the operational costs of such lunch program, fixing the price per meal or per food item. To operate such lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in any surplus commodity or lunch aid program.

(11) To purchase textbooks, to furnish them without cost or to rent them to students, to participate in any textbook aid program, all in accordance with applicable law.

(12) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(13) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with the laws applicable thereto. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-5-4.

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(14) To purchase insurance, ~~or to~~ establish and maintain a program of self-insurance, **or enter into an interlocal agreement with one (1) or more school corporations to establish and maintain a cooperative risk management program under IC 20-5-2.7**, relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance, ~~or to~~ establish and maintain a program of self-insurance, **or enter into an interlocal agreement with one (1) or more school corporations to establish and maintain a cooperative risk management program under IC 20-5-2.7**, protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from any liability, risk, accident, or loss related to any school property, school contract, school or school related activity, including but not limited to the purchase of insurance or the establishment and maintenance of a self-insurance program protecting such persons against false imprisonment, false arrest, libel, or slander for acts committed in the course of their employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to any property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance; to benefit school corporation employees, which may include accident, sickness, health, or dental coverage, provided that any plan of self-insurance shall include an aggregate stop-loss provision.

(15) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(16) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the performance of ~~his~~ **the member's or employee's** duties for or employment with, the school corporation, provided the governing body by resolution determined that such action was taken in good faith. To save any such member or employee harmless from any

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liability, cost, or damage in connection therewith, including but not limited to the payment of any legal fees, except where such liability, cost, or damage is predicated on or arises out of the bad faith of such member or employee, or is a claim or judgment based on ~~his~~ **the member's or employee's** malfeasance in office or employment.

(17) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, its agents, employees, and pupils and for the operation of its governing body, which rules, regulations, and procedures may be designated by any appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(18) To ratify and approve any action taken by any member of the governing body, any officer of the governing body, or by any employee of the school corporation after such action is taken, if such action could have been approved in advance, and in connection therewith to pay any expense or compensation permitted under IC 20-5-1 through IC 20-5-6 or any other law.

(19) To exercise any other power and make any expenditure in carrying out its general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including but not limited to the acquisition of property or the employment or contracting for services, even though such power or expenditure shall not be specifically set out herein. The specific powers set out in this section shall not be construed to limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-5-1 through IC 20-5-6 by specific language or by reference to other law.

SECTION 3. IC 20-5-2.7 IS ADDED TO THE INDIANA CODE AS NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 2.7. Cooperative Risk Management Programs

Sec. 1. As used in this chapter, "aggregate insurance coverage" means the coverage provided by an insurance contract that:

- (1) is purchased by a cooperative program; and**
- (2) provides excess coverage if the aggregate amount of claims submitted by member school corporations and payable by the self-insurance fund exceeds the total amount of self-insured risk retained by the members in a fiscal year.**

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1 Sec. 2. As used in this chapter, "commissioner" means the
2 insurance commissioner appointed under IC 27-1-1-2.

3 Sec. 3. As used in this chapter, "cooperative program" means a
4 cooperative risk management program established under this
5 chapter.

6 Sec. 4. As used in this chapter, "member" refers to a school
7 corporation that enters into an interlocal agreement with another
8 school corporation to establish a cooperative program.

9 Sec. 5. As used in this chapter, "self-insurance fund" means an
10 actuarially sound fund established by a cooperative program as a
11 reserve to cover self-insured risk retained by the members for
12 losses covered under this chapter and to pay premiums for
13 aggregate insurance coverage and specific insurance coverage
14 required under this chapter.

15 Sec. 6. As used in this chapter, "specific insurance coverage"
16 means the coverage provided by one (1) or more insurance
17 contracts that:

- 18 (1) are purchased by a cooperative program; and
- 19 (2) provide excess coverage for a part of a specific claim that
- 20 exceeds the amount covered by the self-insurance fund.

21 Sec. 7. (a) Two (2) or more school corporations may enter into
22 an interlocal agreement under IC 36-1-7 to establish a cooperative
23 risk management program through which the school corporations
24 agree to maintain a program of joint self-insurance to cover
25 certain retained risks and to jointly purchase aggregate insurance
26 coverage and specific insurance coverage, including the following:

- 27 (1) Casualty insurance, including general and professional
- 28 liability coverage and student accident insurance.
- 29 (2) Property insurance.
- 30 (3) Automobile insurance, including motor vehicle liability
- 31 insurance coverage and security for motor vehicles owned or
- 32 operated, and protection against other liability and loss
- 33 associated with the ownership of motor vehicles.
- 34 (4) Surety and fidelity insurance coverage.
- 35 (5) Umbrella and excess insurance coverage.
- 36 (6) Worker's compensation coverage.

37 (b) A cooperative program established under this chapter is a
38 separate legal entity with the power to:

- 39 (1) sue and be sued;
- 40 (2) make contracts; and
- 41 (3) hold and dispose of real and personal property.

42 Sec. 8. A cooperative program established under this chapter is

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1 subject to regulation by the department of insurance created by
2 IC 27-1-1-1.

3 Sec. 9. (a) A cooperative program shall:

4 (1) establish a self-insurance fund with an aggregate limit on
5 the total amount of self-insured risk retained by the members
6 in a fiscal year; and

7 (2) maintain aggregate insurance coverage and specific
8 insurance coverage.

9 (b) A self-insurance fund established under subsection (a) must
10 be funded at the beginning of each fiscal year by a contribution
11 from each member in an amount that reflects the member's share
12 of self-insured risk and other costs of the cooperative program.

13 (c) Annual contributions to the self-insurance fund under
14 subsection (b) must be:

15 (1) determined using generally accepted actuarial standards;

16 (2) set to fund at least one hundred percent (100%) of the
17 self-insured risk retained by the members in a fiscal year plus
18 the other costs of the cooperative program, including
19 premiums for aggregate insurance coverage and specific
20 insurance coverage; and

21 (3) approved by the commissioner.

22 Sec. 10. (a) An interlocal agreement entered into under section
23 7 of this chapter must:

24 (1) establish the cooperative program as a separate legal
25 entity; and

26 (2) specify the organization, composition, and powers of the
27 governing authority of the cooperative program as required
28 by IC 36-1-7-3.

29 (b) The governing authority of the cooperative program shall
30 adopt bylaws concerning the following:

31 (1) A financial plan setting forth in general terms:

32 (A) the types of risks covered under the cooperative
33 program;

34 (B) the aggregate limit on the total amount of self-insured
35 risk retained by the cooperative program in a fiscal year;

36 (C) the minimum amount of specific insurance coverage
37 and aggregate insurance coverage that must be maintained
38 by the cooperative program; and

39 (D) the procedure for determining each member's annual
40 contribution to the self-insurance fund.

41 (2) A plan of management that provides for:

42 (A) the responsibility of the governing authority with

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regard to:

- (i) maintaining the amount of reserves in the self-insurance fund;
- (ii) disposing of surpluses; and
- (iii) administering the cooperative program in the event of termination;

(B) the basis on which new members may be admitted to, and existing members may leave, the cooperative program, including a provision specifying that an existing member may not leave the cooperative program unless the member's departure is specifically approved by the commissioner; and

(C) other provisions necessary or desirable for the operation of the cooperative program.

(c) The following must be submitted to and approved by the commissioner before a cooperative program may commence operations:

- (1) The interlocal agreement described in subsection (a).
- (2) The bylaws described in subsection (b).
- (3) The form and purchase by the cooperative program of any insurance contracts, including contracts for aggregate insurance coverage and specific insurance coverage.
- (4) An accounting, based on generally accepted actuarial standards, of sufficient reserves committed before commencement of operations to pay obligations of the cooperative program.
- (5) Each coverage document form to be issued by the cooperative program.
- (6) Any other information determined necessary by the commissioner.

(d) If the commissioner does not disapprove the information submitted under subsection (c) earlier than thirty (30) days after the information is submitted, the information is considered approved.

Sec. 11. (a) A cooperative program shall have an annual audit performed by an independent certified public accounting firm according to guidelines established by the state board of accounts.

(b) Not later than one hundred eighty (180) calendar days after the close of a cooperative program's fiscal year, the cooperative program must furnish the cooperative program's members with audited financial statements certified by an independent certified public accounting firm.

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(c) Copies of the audit report and certified financial statements required under this section must be provided to the commissioner and the state board of accounts not later than one hundred eighty (180) calendar days after the close of the cooperative program's fiscal year.

(d) If a cooperative program fails to have the annual audit performed as required by subsection (a), the commissioner shall cause the audit to be performed at the expense of the cooperative program.

(e) The working papers of the certified public accountant and other records pertaining to the preparation of the audited financial statements required under this section may be reviewed by the commissioner.

Sec. 12. The assets of a cooperative program must be:

- (1) treated as a joint investment fund under IC 20-5-11-5; and
- (2) invested under IC 5-13-9 in the same manner as other public funds.

Sec. 13. Not later than sixty (60) calendar days after the beginning of a cooperative program's fiscal year, the governing authority shall submit the following to the commissioner:

- (1) A copy of the bylaws adopted by the cooperative program.
- (2) A copy of each coverage document form issued by the cooperative program.
- (3) A copy of the insurance contracts purchased by the cooperative program, including contracts for aggregate insurance coverage and specific insurance coverage.
- (4) A copy of the interlocal agreement.

Sec. 14. (a) If a cooperative program fails to comply with the requirements of this chapter, the commissioner shall issue a notice of noncompliance to the cooperative program.

(b) Not later than thirty (30) calendar days after a cooperative program receives a notice of noncompliance under subsection (a), the cooperative program shall file with the commissioner a written request for time to restore compliance and a plan to restore compliance.

(c) The commissioner, on receiving the written request and plan to restore compliance filed under subsection (b), may allow a period of one (1) year or less, as determined by the commissioner, during which the cooperative program may restore compliance.

(d) If a plan to restore compliance is:

- (1) not filed under subsection (b);
- (2) filed under subsection (b) and not approved by the

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1 commissioner; or

2 (3) filed under subsection (b), approved by the commissioner,
3 and at the end of the period determined by the commissioner
4 under subsection (c) the cooperative program is not in
5 compliance with this chapter;

6 the commissioner may grant additional time to comply, or the
7 commissioner may suspend, limit, or terminate the authority of the
8 cooperative program to do business in this state.

9 (e) A cooperative program is subject to IC 27-9.

10 (f) A cooperative program shall be considered a member insurer
11 for purposes of IC 27-6-8.

12 Sec. 15. (a) Motor vehicle coverage provided by a cooperative
13 program must provide the ability for a member to respond in
14 damages for liability arising out of the ownership, maintenance, or
15 use of a motor vehicle in amounts at least equal to the amounts
16 required under IC 9-25-4.

17 (b) A member that participates in the motor vehicle coverage
18 provided by a cooperative program is considered to meet the
19 financial responsibility requirements set forth in IC 9-25-4, and an
20 application for a certificate of self-insurance under IC 9-25-4-11 is
21 not required.

22 Sec. 16. Information regarding the:

23 (1) portion of funds; or

24 (2) liability reserve;

25 established by a cooperative program to satisfy a specific claim or
26 cause of action is confidential and is not subject to subpoena or
27 order to produce, except in a supplementary or an ancillary
28 proceeding to enforce a judgment. This section does not prohibit
29 the commissioner from obtaining the information described in this
30 section.

31 Sec. 17. The department of insurance may adopt rules under
32 IC 4-22-2 to implement this chapter.

33 SECTION 4. IC 21-2-5.6-2 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The
35 self-insurance fund may be used to provide monies for the following
36 purposes:

37 (1) the payment of any judgment rendered against the school
38 corporation, or rendered against any officer or employee of the
39 school corporation for which the school corporation is liable
40 under IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5,
41 IC 34-4-16.6, or IC 34-4-16.7 before their repeal);

42 (2) the payment of any claim or settlement for which the school

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corporation is liable pursuant to IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5, IC 34-4-16.6, or IC 34-4-16.7 before their repeal);

(3) the payment of any premium, management fee, claim, or settlement for which the school corporation is liable pursuant to any federal or state statute including but not limited to payments pursuant to IC 22-3 and IC 22-4; ~~or~~

(4) the payment of any settlement or claim for which insurance coverage is permitted under IC 20-5-2-2(14); **or**

(5) the payment of a contribution to the self-insurance fund of a cooperative risk management program under IC 20-5-2.7-9.

SECTION 5. IC 27-6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** This chapter applies to all kinds of direct insurance except:

(1) life, annuity, health, or disability insurance;

(2) mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;

(3) fidelity or surety bonds, or any other bonding obligations;

(4) credit insurance, vendors' single interest insurance, or collateral protection insurance or similar insurance with the primary purpose of protecting the interests of a creditor arising out of a creditor-debtor transaction;

(5) warranty or service contract insurance;

(6) title insurance;

(7) ocean marine insurance;

(8) a transaction between a person or an affiliate of a person and an insurer or an affiliate of an insurer that involves the transfer of investment or credit risk without a transfer of insurance risk;

(9) insurance provided by or guaranteed by a government entity; and

(10) insurance written on a retroactive basis to cover known losses for which a claim has already been made and the claim is known to the insurer at the time the insurance is bound.

(b) This chapter applies to coverage provided under a cooperative program established under IC 20-5-2.7. For purposes of this chapter, a cooperative program is considered to be a member insurer.

SECTION 6. IC 27-9-1-1, AS AMENDED BY P.L.5-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Proceedings under this article apply to the following:

(1) All insurers who are doing, or who have done, insurance

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- 1 business in Indiana, and against whom claims arising from that
- 2 business may exist.
- 3 (2) All insurers who purport to do insurance business in Indiana.
- 4 (3) All insurers who have insureds resident in Indiana.
- 5 (4) All other persons organized or in the process of organizing
- 6 with the intent to do an insurance business in Indiana.
- 7 (5) All nonprofit service plans, fraternal benefit societies, and
- 8 beneficial societies.
- 9 (6) All title insurance companies.
- 10 (7) All health maintenance organizations under IC 27-13.
- 11 (8) All multiple employer welfare arrangements under
- 12 IC 27-1-34.
- 13 (9) All limited service health maintenance organizations under
- 14 IC 27-13-34.
- 15 (10) All mutual insurance holding companies under IC 27-14.
- 16 **(11) All cooperative programs established under IC 20-5-2.7.**
- 17 **SECTION 7. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1157, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PORTER, Chair

Committee Vote: yeas 10, nays 4.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1157, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1157 be amended to read as follows:

Page 1, line 12, delete "law," and insert "**provision of this chapter to the contrary, and notwithstanding IC 20-5-2-2(14),**".

Page 13, delete lines 21 through 27.

Renumber all SECTIONS consecutively.

(Reference is to HB 1157 as printed January 30, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1157 be amended to read as follows:

Page 6, line 41, delete "," and insert "**under IC 20-5-2.7,**".

Page 7, line 7, delete "," and insert "**under IC 20-5-2.7,**".

Page 9, line 36, after "is" insert "**subject to regulation by the department of insurance created by IC 27-1-1-1.**".

Page 9, delete lines 37 through 40.

Page 10, delete line 12.

Page 10, line 17, delete "." and insert "; **and**

(3) approved by the commissioner.".

Page 11, line 4, delete ";" and insert ", **including a provision specifying that an existing member may not leave the cooperative program unless the member's departure is specifically approved by the commissioner;**".

Page 11, between lines 7 and 8, begin a new paragraph and insert:

"(c) The following must be submitted to and approved by the commissioner before a cooperative program may commence operations:

(1) The interlocal agreement described in subsection (a).

(2) The bylaws described in subsection (b).

(3) The form and purchase by the cooperative program of any insurance contracts, including contracts for aggregate insurance coverage and specific insurance coverage.

(4) An accounting, based on generally accepted actuarial standards, of sufficient reserves committed before commencement of operations to pay obligations of the cooperative program.



(5) Each coverage document form to be issued by the cooperative program.

(6) Any other information determined necessary by the commissioner.

(d) If the commissioner does not disapprove the information submitted under subsection (c) earlier than thirty (30) days after the information is submitted, the information is considered approved."

Page 12, line 11, after "year" insert **"or less, as determined by the commissioner,"**.

Page 12, line 18, delete "one (1) year" and insert **"the period determined by the commissioner under subsection (c)"**.

Page 12, between lines 22 and 23, begin a new paragraph and insert:

"(e) A cooperative program is subject to IC 27-9.

(f) A cooperative program shall be considered a member insurer for purposes of IC 27-6-8."

Page 12, line 39, after "judgment." insert **"This section does not prohibit the commissioner from obtaining the information described in this section."**

Page 13, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 5. IC 27-6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This chapter applies to all kinds of direct insurance except:

- (1) life, annuity, health, or disability insurance;**
- (2) mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;**
- (3) fidelity or surety bonds, or any other bonding obligations;**
- (4) credit insurance, vendors' single interest insurance, or collateral protection insurance or similar insurance with the primary purpose of protecting the interests of a creditor arising out of a creditor-debtor transaction;**
- (5) warranty or service contract insurance;**
- (6) title insurance;**
- (7) ocean marine insurance;**
- (8) a transaction between a person or an affiliate of a person and an insurer or an affiliate of an insurer that involves the transfer of investment or credit risk without a transfer of insurance risk;**
- (9) insurance provided by or guaranteed by a government entity;**
- and**
- (10) insurance written on a retroactive basis to cover known losses for which a claim has already been made and the claim is known to the insurer at the time the insurance is bound.**

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(b) This chapter applies to coverage provided under a cooperative program established under IC 20-5-2.7. For purposes of this chapter, a cooperative program is considered to be a member insurer.

SECTION 6. IC 27-9-1-1, AS AMENDED BY P.L.5-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Proceedings under this article apply to the following:

- (1) All insurers who are doing, or who have done, insurance business in Indiana, and against whom claims arising from that business may exist.
- (2) All insurers who purport to do insurance business in Indiana.
- (3) All insurers who have insureds resident in Indiana.
- (4) All other persons organized or in the process of organizing with the intent to do an insurance business in Indiana.
- (5) All nonprofit service plans, fraternal benefit societies, and beneficial societies.
- (6) All title insurance companies.
- (7) All health maintenance organizations under IC 27-13.
- (8) All multiple employer welfare arrangements under IC 27-1-34.
- (9) All limited service health maintenance organizations under IC 27-13-34.
- (10) All mutual insurance holding companies under IC 27-14.
- (11) All cooperative programs established under IC 20-5-2.7."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1157 as printed January 30, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1157 be amended to read as follows:

Page 2, line 37, delete "cost of" and insert "**premium for**".

Page 2, line 39, delete "cost of" and insert "**premium for**".

Page 2, line 39, after "coverage." insert "**The administrator of the state employee health plan described in subsection (b)(1) shall not pay any part of the administrative cost or other costs of the coverage.**".

(Reference is to HB 1157 as printed January 30, 2004.)

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